

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>UCHE PHILLIP MORDI,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 14-CV-759-SMY</b>
	)	
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent.</b>	)	

**MEMORANDUM REGARDING CERTIFICATE OF APPEALABILITY**

This matter is before the Court on the issue of whether a certificate of appealability should issue for Petitioner’s appeal. Petitioner filed an Amended Petition under 28 U.S.C. § 2255 seeking to withdraw his guilty plea (Doc. 5). The Court issued an Order denying the Amended Petition (Doc. 19) and Petitioner filed a Notice of Appeal of that denial (Doc. 21).

Rule 11(a) of the Rules Governing Section 2255 Proceedings instructs the district court to “issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” A certificate of appealability may issue only if the petitioner “has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). To meet this requirement, the petitioner must “demonstrate that reasonable jurists would find the district court’s assessment of his constitutional claims debatable or wrong.” *United States v. Fleming*, 676 F.3d 621, 625 (7th Cir. 2012) (quoting *Tennard v. Dretke*, 542 U.S. 274, 281 (2004)). The petitioner need not show that his appeal will succeed, but he must show “something more than the absence of frivolity” or the existence of mere “good faith” on his part. *Miller-El*, 537 U.S. at 337, 338.

Here, the Court found that the Petitioner’s appeal is frivolous in ruling on his request for

*in forma pauperis* status. (Doc. 27). Petitioner offers no new or compelling arguments in his Notice of Appeal. He merely states that he is appealing the Court's Order in its entirety, including the Court's decision to treat his Motion for Leave to Supplement (Doc. 18) as moot. The basis for his Motion for Leave to Supplement was the affidavit of Trooper Zeigler attached to Respondent's brief in opposition. Petitioner filed a reply to that opposition brief, and his Motion for Leave to Supplement presented no basis for granting an additional reply brief. As such, denial of the motion would have been proper either as moot or on its substance. Petitioner had his opportunity to respond.

Moreover, Petitioner provides no specific explanation as to how the Court erred in finding his claims time-barred in either his Notice of Appeal or the statement of issues in the current motion. He essentially restates his original position and disagrees with the outcome. Those arguments were fully addressed in the Order.

No reasonable jurist would find these rulings debatable. Petitioner has not made the requisite showing under 28 U.S.C. § 2253(c)(2), and so the Court **DENIES** him a certificate of appealability.

**IT IS SO ORDERED.**

**DATED: December 5, 2017**

**s/ Staci M. Yandle**  
**STACI M. YANDLE**  
**United States District Judge**